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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,102	07/18/2003	Craig E. Goldman	18010-00003	2898

7590 02/18/2005

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EXAMINER
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PATEL, RAMESH B

ART UNIT	PAPER NUMBER
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2121

DATE MAILED: 02/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/623,102	<b>Applicant(s)</b> GOLDMAN, CRAIG E.	
	<b>Examiner</b> Ramesh B. Patel	<b>Art Unit</b> 2121	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
~~Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).~~
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-30 are presented for examination.
2. The claims and only the claims form the metes and bounds of the invention.  
“Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)” (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. The Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

### Drawings

3. The drawings are objected to because the submitted drawings (figures 1-18) are not clear and/or not readable text and/or lines are not clear. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing

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should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

**Claim Rejections - 35 USC § 112**

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

~~The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.~~

Claims 1-15, 18-23 and 28-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 10, 21-22 and 28-30, the word "means" is preceded by the word(s) "to update..." in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by

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the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). Also, examiner had noticed the applicant has used other "means" terms preceded by the word(s) "for..."; it appears to be there is inconsistency between these terms. Applicant is suggested to review and make appropriate correction as required.

Regarding claim 18, line 9, the word "means," is preceded by the word(s) "responsive to the means for comprising:" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). The examiner is not sure why means responsive for means used, it is not clear and/or not properly defined as to what it meant by means, responsive to means... Applicant is suggested to review and make appropriate correction as required.

Dependent claims, which are not particularly rejected, are rejected based on the rejected base claim.

**Claim Rejections - 35 USC § 102**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Kumar et al. (US Patent 5,038,305).

As to claims 1, 10, 16, 18, 21, 24-26 and 28, Kumar teaches the invention including a programmable controller for controlling an output state based on position indicated from a position transducer, comprising: an interface to the position transducer that converts the transducer signals into a change in position is taught as the transducer is connected to moving part of a machine to the programmable controller's processor module (see, abstract lines 5-7 and figures 2A-2D and col. 2, lines 54-58); a transducer position counter that accumulates the change in transducer position (see, figure 2B and col. 2, lines 61-68 and col. 5, lines 29-52); a net forward position counter that accumulates the net forward position and means for comparing the value of the net forward position counter and the value of the transducer position counter (see, abstract and figures 2A-2C and col. 5, line 42 to col. 6, line 16); means for updating the position counter when the transducer signals indicate a change of position and means for

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updating the net forward position counter when the value of the net forward means for updating the position counter and the value of the transducer position counter are equal and the transducer interface indicates a forward movement (see, abstract and figures 2A-2D and col. 3, lines 14-36).

As to claims 2 and 29-30, Kumar teaches the programmable controller further comprising means for disabling an output state when the transducer position does not match the net forward position (see, figures 2B-C and col. 6, lines 3--52).

As to claims 3, 11 and 27, Kumar teaches the programmable controller in which the transducer interface further converts the transducer signals into an index signal that occurs once per cycle in a repetitive operation cycle (see, abstract and figures 2A-2D and col. 3, lines 21-36 and col. 4, lines 39-52 and col. 8, lines 6-23).

As to claims 4 and 12, Kumar teaches the programmable controller further comprising means for setting the transducer position counter and the net forward position counter to zero when the index signal is detected and the transducer interface indicates a forward movement (see, abstract and figures 2B-2C and col. 3, lines 21-36 and col. 6, line 53 to col. 7, line 8).

As to claims 5-9, 13-15, 19-20 and 22, Kumar teaches the programmable controller further comprising: means for setting a maximum position value, and

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comparison means for comparing the transducer position to the maximum position value; means for setting the transducer position counter and the net forward position counter to zero when the transducer position is equal to the maximum position value and the transducer interface indicates a forward movement and means for setting the transducer position counter to the maximum position value when the transducer position is zero and the transducer interface indicates a reverse movement (see, abstract and figures 2B-2C and col. 3, lines 21-36 and col. 6, line 53 to col. 7, line 8 and col. 8, lines 6-23).

As to claims 17 and 23, Kumar teaches the programmable controller wherein the event signal comprises an interrupt (see, figures 2B-C and col. 6, lines 38-52).

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

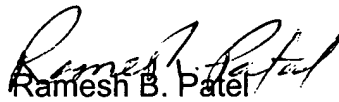


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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh B. Patel whose telephone number is 571-272-3688. The examiner can normally be reached on M-Th; 7:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 571-272-3687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Ramesh B. Patel  
Primary Examiner  
Art Unit 2121

2/17/05

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